

Introduced by Senator EvansFebruary 22, 2013

An act to amend Section 231 of the Code of Civil Procedure, relating to juries.

LEGISLATIVE COUNSEL'S DIGEST

SB 794, as introduced, Evans. Juries: criminal trials: peremptory challenges.

Existing law provides that in criminal cases, if the offense charged is punishable with death, or with imprisonment in the state prison for life, the defendant is entitled to 20 and the people to 20 peremptory challenges. Existing law, subject to exception, provides that for any other offense, the defendant is entitled to 10 and the state to 10 peremptory challenges.

This bill would instead provide that, in those latter cases, the defendant and the state are entitled to an unspecified number of peremptory challenges.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 231 of the Code of Civil Procedure is
- 2 amended to read:
- 3 231. (a) In criminal cases, if the offense charged is punishable
- 4 with death, or with imprisonment in the state prison for life, the
- 5 defendant is entitled to 20 and the people to 20 peremptory
- 6 challenges. Except as provided in subdivision (b), in a trial for any
- 7 other offense, the defendant is entitled to ~~10~~ ____ and the state to

10 ____ peremptory challenges. When two or more defendants are jointly tried, their challenges shall be exercised jointly, but each defendant shall also be entitled to five additional challenges which may be exercised separately, and the people shall also be entitled to additional challenges equal to the number of all the additional separate challenges allowed the defendants.

(b) If the offense charged is punishable with a maximum term of imprisonment of 90 days or less, the defendant is entitled to six and the state to six peremptory challenges. When two or more defendants are jointly tried, their challenges shall be exercised jointly, but each defendant shall also be entitled to four additional challenges which may be exercised separately, and the state shall also be entitled to additional challenges equal to the number of all the additional separate challenges allowed the defendants.

(c) In civil cases, each party shall be entitled to six peremptory challenges. If there are more than two parties, the court shall, for the purpose of allotting peremptory challenges, divide the parties into two or more sides according to their respective interests in the issues. Each side shall be entitled to eight peremptory challenges. If there are several parties on a side, the court shall divide the challenges among them as nearly equally as possible. If there are more than two sides, the court shall grant such additional peremptory challenges to a side as the interests of justice may require; provided that the peremptory challenges of one side shall not exceed the aggregate number of peremptory challenges of all other sides. If any party on a side does not use his or her full share of peremptory challenges, the unused challenges may be used by the other party or parties on the same side.

(d) Peremptory challenges shall be taken or passed by the sides alternately, commencing with the plaintiff or people; and each party shall be entitled to have the panel full before exercising any peremptory challenge. When each side passes consecutively, the jury shall then be sworn, unless the court, for good cause, shall otherwise order. The number of peremptory challenges remaining with a side shall not be diminished by any passing of a peremptory challenge.

(e) If all the parties on both sides pass consecutively, the jury shall then be sworn, unless the court, for good cause, shall otherwise order. The number of peremptory challenges remaining

- 1 with a side shall not be diminished by any passing of a peremptory
- 2 challenge.

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